

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of:

RICHARD PATRICK LLOYD,

Petitioner.

Case No. 98-27

OAH No. 2015090458

**DECISION**

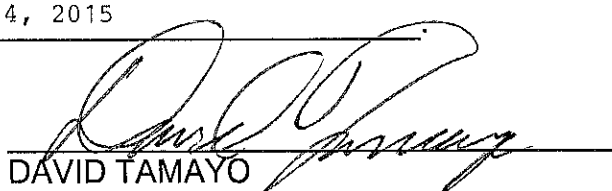
The Proposed Decision of Marcie Larson, Administrative Law Judge, in Sacramento, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 4, paragraph number 5, "petitioner's operator license" is stricken and replaced with "petitioner's field representative license".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on January 13, 2016.

IT IS SO ORDERED December 14, 2015



DAVID TAMAYO

President

Structural Pest Control Board

Department of Consumer Affairs

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of:

RICHARD LLOYD

Petitioner.

OAH No. 2015090458

**DECISION**

This matter was heard on October 7, 2015, in Sacramento, California, before a quorum of the Structural Pest Control Board. Administrative Law Judge Marcie Larson, Office of Administrative Hearings, State of California, presided.

Langston Edwards, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General, and appeared pursuant to Government Code section 11522.

Richard Lloyd was present at the hearing and represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on October 7, 2015.

**FACTUAL FINDINGS**

*Procedural History and Background*

1. On August 29, 1995<sup>1</sup>, the Registrar of the Board issued Field Representative's license number FR 25266 (Branch 3)<sup>2</sup> (license) to petitioner. His license expired on June 30, 1998, and was not renewed.

---

<sup>1</sup> On March 29, 1989, petitioner was issued Field Representative License Number FR 17222 (Branch 3). The license was cancelled on June 30, 1994.

<sup>2</sup> Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination. The practice of pest control is classified into the following three branches:

2. On October 19, 1998, Donna Kingwell (complainant), Registrar for the Board, filed a Second Amended Accusation (Accusation) against petitioner. Complainant sought to discipline petitioner's license pursuant to Business and Professions Code sections 8641 and 8644, related to the inspection of two properties owned by the same individual at 2915-A and 2915-B Kennedy Avenue, Chico, California (Kennedy Properties). Specifically, complainant alleged that in January 1997, while petitioner was employed as a Field Representative for Harrison Termite and Pest Control (Harrison), he failed to properly inspect the Kennedy Properties, misrepresented the conditions of the properties and failed to report numerous conditions on the properties. Service of the Accusation was attempted and returned to complainant. As a result, petitioner failed to file a Notice of Defense.

3. On March 3, 1999, the Board issued a Default Decision and Order (Default Decision). Petitioner's license was revoked effective April 2, 1999.

4. On April 1, 1999, petitioner faxed a Petition for Reconsideration to the Board requesting reconsideration of the Default Decision. Petitioner explained that he did not receive notification of the hearing concerning the Accusation. Petitioner asked that he be allowed to present his case to the Board to demonstrate that he was a "diligent and thorough inspector."

5. On April 5, 1999, complainant sent petitioner a letter which informed him that his Petition for Reconsideration was not timely.

#### *Petition for Reinstatement*

6. On June 22, 2015, petitioner filed the instant Petition for Reinstatement of his license. At hearing, petitioner explained the facts and circumstances that he believes resulted in discipline of his license and his rehabilitative efforts.

7. Petitioner testified that he learned a lot from the inspections he performed on the Kennedy Properties that resulted in the Accusation and subsequent revocation of his license. At the time of the inspection in January 1997, petitioner had been licensed as a Field Representative for approximately eight years. Petitioner felt that the owner of Harrison tried to "push" him through the inspections. The owner of the Kennedy properties tried to conceal problems with the properties. Petitioner testified that he was young and may not have had enough training to deal with the situation he faced. Petitioner realized that he was not as thorough in his inspections of the properties as he should have been and as a result, missed many problems he should have discovered and reported. Petitioner now understands his mistakes and has learned from those mistakes.

8. After petitioner's license was revoked, he made the decision to work in a different profession. He completed a four-year apprenticeship program and became a

---

Fumigation (Branch 1), General Pest Control (Branch 2), and Termite (Branch 3). (Bus. & Prof. Code, § 8560, subd. (a).)

journeyman carpenter. Petitioner worked on new construction projects for approximately six years. Petitioner found that the physical requirements of construction work took a toll on him as he aged, so he worked in property management for a few years. He then went back into construction and performed small jobs, including termite repair work. Petitioner then decided to pursue reinstatement of his license. He would like to return to work as a Field Representative because he feels that it is the profession he knows best.

9. For the last year, petitioner has worked for Feather River Termite (Feather River), a Branch 3 company. He works closely with Bill Love, the owner of Feather River. Under Mr. Love's supervision, petitioner has performed several inspections. Petitioner feels that he is competent to perform inspections as a Field Representative. Petitioner has not completed any training or continuing education courses related to Branch 3 since his license was revoked. However, should his license be reinstated, petitioner assured the Board that he will take all necessary continuing education to gain the knowledge he needs to strengthen his skills.

### *Discussion*

10. Prior to the revocation of his license, petitioner had worked as a Field Representative for approximately eight years without incident. The violations related to petitioner's inspection of the Kennedy Properties were serious, as he acknowledged. Since that time, petitioner has learned from his mistakes and assured the Board he will undertake focused efforts to educate himself on the Board's laws and regulations. Petitioner has provided sufficient evidence of rehabilitation to warrant reinstatement of his license with probationary conditions as detailed below. In particular, the Board believes that due to the length of time that has passed since petitioner worked as a Field Representative, he needs to complete continuing education once his license is reinstated. The purpose of the continuing education is to ensure that petitioner complies with the Board's rules and regulations, and does not pose a risk to the public health, safety and welfare.

## LEGAL CONCLUSIONS

1. Government Code section 11522 provides that a person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition.

2. In a proceeding to restore a revoked or surrendered license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) An individual seeking reinstatement must present strong proof of rehabilitation, which must be sufficient to overcome the former adverse determination. (*Houseman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.)

3. As set forth in the Factual Findings and Legal Conclusions as a whole, petitioner has met his burden and established that it would not be against the public interest to reinstate his Field Representative license, upon appropriate terms and conditions designed to protect the public.

## ORDER

The petition of Richard Lloyd for reinstatement of Field Representative license number FR 25266 (Branch 3) is GRANTED. Upon reinstatement, petitioner's license shall be immediately REVOKED. The order of revocation shall be stayed, and petitioner shall be placed on probation for a period of three years on the following terms and conditions:

1. **Obey All Laws**

Petitioner shall obey all laws and rules relating to the practice of structural pest control.

2. **Quarterly Reports**

Petitioner shall file quarterly reports with the Board during the period of probation.

3. **Tolling of Probation**

Should petitioner leave California to reside outside this state, he must immediately notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

4. **Notice to Employers**

Petitioner shall notify all present and prospective employers of the decision in this case and the terms, conditions and restrictions imposed on petitioner by said decision. Within 30 days of the effective date of this decision, and within 15 days of undertaking new employment, petitioner shall cause his employer to report to the Board in writing acknowledging the employer has read this decision.

5. **Completion of Probation**

Upon successful completion of probation, petitioner's operator's license will be fully restored.

6. **Violation of Probation**

Should petitioner violate probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary

order that was stayed. If a petition to revoke probation is filed against petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

**7. Continuing Education Course – Branch 3**

Petitioner shall complete eight hours of continuing education courses. Four hours of continuing education shall be related to the Board's laws and regulations and four hours of continuing education shall be for pest control in Branch 3 (wood destroying pests and organisms). The eight hours of continuing education must be completed within nine months of the effective date of this Decision. The eight hours of continuing education shall not count towards his renewal period continuing education requirement.

**8. Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager**

Petitioner is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company during the period that discipline is imposed on petitioner Field Representative License number FR 25266 (Branch 3).


**DECISION**

This Decision is hereby adopted by the Structural Pest Control Board.

This Decision shall become effective on January 13, 2016.

IT IS SO ORDERED.

Dated: December 14, 2015

  
DAVID TAMAYO  
President  
Structural Pest Control Board